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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/590,201

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Jacques Thomasset

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EXAMINER

AUGHENBAUGH, WALTER

ART UNIT

PAPER NUMBER

1782

MAIL DATE

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PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/590,201	<b>Applicant(s)</b> THOMASSET, JACQUES	
	<b>Examiner</b> WALTER B. AUGHENBAUGH	<b>Art Unit</b> 1782	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 24 February 2010.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-7 and 13 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-7 and 13 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)            | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948)    | Paper No(s)/Mail Date. _____                                      |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>11/24/09, 4/15/10</u> .                                       | 6) <input type="checkbox"/> Other: _____                          |

## **DETAILED ACTION**

### ***Acknowledgement of Applicant's Amendments***

1. The amendments made in claims 1, 6 and 13 in the Amendment filed February 24, 2010 have been received and considered by Examiner.

### ***WITHDRAWN REJECTIONS***

2. The 35 U.S.C. 112, second paragraph, rejection of claims 5, 6 and 13-18 made of record in the previous Office Action has been withdrawn due to Applicant's amendments in claim 13 and Applicant's cancellation of claims 14-18.
3. The 35 U.S.C. 102 rejection of claims 1-7 and 13-18 as being anticipated by Nishimura et al. (USPN 5,296,278) made of record in the previous Office Action has been withdrawn due to Applicant's amendments in claims 1 and 13 Applicant's cancellation of claims 14-18.

### ***NEW REJECTIONS***

4. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

### ***Claim Rejections - 35 USC § 102***

5. Claims 1-4 and 7 are rejected under 35 U.S.C. 102(b) as being anticipated by Sadr (USPN 6,467,643).

In regard to independent claim 1, Sadr teaches a synthetic resin multilayer structure having structure that corresponds to the structure claimed in claim 1 (Fig. 4 and accompanying description, see, for example, col. 4, lines 40-49), where the border to the left of the peak of the

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ridge 40 corresponds to the claimed top face, the border to the right of the peak of the ridge 40 corresponds to the claimed bottom face (or vice versa), the polyethylene inner and outer layers 46 and 48, collectively, correspond to the claimed first thermoplastic resin layer, and barrier layer 50 corresponds to the claimed second thermoplastic resin layer which is a barrier resin layer. Both of the barrier layers 50 shown in Fig. 4 each form “at least one zigzag-shaped double fold”. See. Fig. 4.

In regard to claim 2, all tanks have at least one axis of symmetry.

In regard to claim 3, the tank of Sadr comprises a central orifice passing through the structure. Tanks have at least one orifice.

In regard to claim 4, the ridge 40 (which comprises the multilayer structure) corresponds to the claimed tube shoulder.

In regard to claim 7, the multilayered structure of Sadr comprising the barrier layer 50 and adhesive layers 52 and 54 corresponds to the multilayered barrier structure of claim 7.

6. Claims 1-7 and 13 are rejected under 35 U.S.C. 102(b) as being anticipated by Short (USPN 6,613,408).

In regard to independent claim 1, Short teaches a synthetic resin multilayer structure having structure that corresponds to the structure claimed in claim 1 (Fig. 3 and accompanying description, see, for example, col. 2, line 44-col. 3, line 25), where the upper border of the seam shown in Fig. 3 corresponds to the claimed top face, the lower border of the seam shown in Fig. 3 corresponds to the claimed bottom face (or vice versa), the high density polyethylene (“or similar polyolefin”, col. 2, lines 49 and 64-65) inner and outer layers 30 and 34, collectively,

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correspond to the claimed first thermoplastic resin layer, and barrier layer 32 corresponds to the claimed second thermoplastic resin layer which is a barrier resin layer. Barrier layer 32 “forms at least one zigzag-shaped double fold”. See. Fig. 3.

In regard to claim 2, all tanks have at least one axis of symmetry. See Fig. 1.

In regard to claim 3, the tank of Short comprises a central orifice passing through the structure. Tanks have at least one orifice. See Fig. 1.

In regard to claim 4, the seam (which comprises the multilayer structure) corresponds to the claimed tube shoulder.

In regard to claim 7, the multilayered structure of Short comprising the barrier layer and adhesive layers (col. 2, lines 59-62) corresponds to the multilayered barrier structure of claim 7.

In regard to independent claim 13, Short teaches a synthetic resin multilayer structure having structure that corresponds to the structure claimed in claim 1 (Fig. 3 and accompanying description, see, for example, col. 2, line 44-col. 3, line 25), where the upper border of the seam shown in Fig. 3 corresponds to the claimed top face, the lower border of the seam shown in Fig. 3 corresponds to the claimed bottom face (or vice versa), the high density polyethylene (“or similar polyolefin”, col. 2, lines 49 and 64-65) inner and outer layers 30 and 34, collectively, correspond to the claimed first thermoplastic resin layer, and barrier layer 32 corresponds to the claimed second thermoplastic resin layer which is a barrier resin layer. Barrier layer 32 “forms at least one zigzag-shaped double fold”. See. Fig. 3. Barrier layer 32 has two free ends (ends that are not “imprisoned” by the first thermoplastic resin layer [the combination of inner and outer

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layers 30 and 34 of HDPE “or similar polyolefin”], far right portion of barrier layer 32 shown in Fig. 3).

In regard to claim 5, a free end of the second layer is in contact with an outer side of the structure at a level of one of the faces because each of the free ends is in contact with an outer side of the structure (that consists of the first and second thermoplastic resin layers) at a point along the horizontal direction at which each of the top and bottom faces (identified above in regard to claim 13) end. Fig. 3.

In regard to claim 6, a free end of the second layer is in contact with the outer side of the structure at a level of one of the top face because each of the free ends is in contact with an outer side of the structure (that consists of the first and second thermoplastic resin layers) at a point along the horizontal direction at which the top face (identified above in regard to claim 13) ends, and the other free end of the second layer is in contact with the outer side of the structure at a level of the bottom face because each of the free ends is in contact with an outer side of the structure (that consists of the first and second thermoplastic resin layers) at a point along the horizontal direction at which the bottom face (identified above in regard to claim 13) ends. Fig. 3. In other words, the top face, bottom face, and both ends of the second layer all end at the same point along the horizontal direction, and therefore all end on the same “level” along the horizontal direction.

### ***Response to Arguments***

7. Applicant’s arguments regarding the 35 U.S.C. 102 rejection of claims 1-7 and 13-18 as being anticipated by Nishimura et al. (USPN 5,296,278) made of record in the previous Office Action are moot due to the withdrawal of the rejection due to Applicant’s amendments.

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8. In regard to Applicant's statement that claim 1 requires that the first thermoplastic resin layer "completely" imprison the second thermoplastic resin layer (page 4 of Amdt.), Examiner notes that claim 1 does not recite "completely" prior to "imprisoned" (line 6). It is believed that a mass of resin can imprison a layer without completely imprisoning it, as in Fig. 3 of Short (USPN 6,613,408). This is why both independent claims 1 and 13 are rejected using Short (USPN 6,613,408) in this Office Action.

### *Conclusion*

9. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

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10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Walter B. Aughenbaugh whose telephone number is (571) 272-1488. The examiner can normally be reached on Monday-Thursday from 9:00am to 7:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Rena Dye, can be reached on (571) 272-3186. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Walter B Aughenbaugh /  
Examiner, Art Unit 1782

5/11/10

/Rena L. Dye/  
Supervisory Patent Examiner, Art Unit 1782